The Mission & Public Affairs Council of the Church of England is the body responsible for overseeing research and comment on social and political issues on behalf of the Church. The Council comprises a representative group of bishops, clergy and lay people with interest and expertise in the relevant areas, and reports to the General Synod through the Archbishops’ Council.

The Church of England believes that every suicide is a tragedy and that a caring society ought to ensure that anyone considering suicide is able to have ready access to life-affirming and life-enhancing support, counselling and medical and nursing care. We also recognise that, for a variety of reasons, some people find the thought of continuing their lives so bleak that they choose suicide, sometimes requesting others to assist them in this endeavour. We wish to respond to such people with compassion and empathy but we believe that compassion is best expressed by making every effort to dissuade them from committing suicide, not by assisting them.

Nonetheless, we recognise that some people will believe that they may best express genuine compassion by assisting a loved one to commit suicide. As we have stated, we do not agree that compassion is best expressed in this way but neither do we believe that prosecution is appropriate in all cases. It is essential, however, in order to protect human life and, particularly, the lives of vulnerable people, that assisted suicide is never deemed to be acceptable or commendable. Aiding, abetting, counselling or procuring a suicide remains a crime and we are assured that the DPP’s guidelines are not intended or designed to compromise this.

In deciding whether or not a prosecution is in the public interest, the over-riding concern ought to be the motivation of the suspect. We recognise that motivation, as distinct from intention, is particularly difficult to discern but the factors listed for and against prosecution are useful, if limited, tools in this regard. It is essential to emphasise that what is being tested is not the reasonableness of the victim's request for assisted suicide but the motivation behind the suspect's actions. No motivation, other than compassion, can override a presumption in favour of prosecution, such presumption being present in all criminal cases that have passed the evidential stage of enquiry. The factors for and against prosecution, therefore, ought to be, in the main, means of assessing whether or not a suspect may be reasonably thought to have acted out of genuine compassion.

We believe that compassion is sometimes genuinely, though mistakenly, expressed through assisted suicide. Compassion, however, ought to be demonstrated in ways other than through a willingness to acquiesce in a victim’s request for assistance in committing suicide. Any genuinely compassionate act of assisted suicide must surely be an action of 'last resort' taken reluctantly by a suspect who has sought, with the victim, actively to explore every other option for relieving suffering.
We believe that all of the factors listed in favour of prosecution (and the additional ones which we have supplied) are such as to preclude genuine compassion being identified as the motive for a suspect assisting a victim to commit suicide. Factors that may weigh against prosecution are, in many cases, the opposite of these, but not always so. For example, we do not believe that anyone acting out of compassion would assist the suicide of a person who did not have 'a clear, settled and informed wish to commit suicide' (19.3). However, a victim having 'a clear, settled and informed wish to commit suicide' (21.1) does not, in itself, indicate that the suspect's actions in assisting suicide were motivated by compassion.

The policy ought not to be understood, interpreted or used as means of assessing the reasonableness of a request for suicide; the factors for and against prosecution are there as a means of assessing the suspect’s motives in responding to such a request. Of course, no one acting from compassion will agree to a request that they consider to be unreasonable but reasonableness, in and of itself, does not indicate that a suspect, acting from compassion will agree to assist a victim to commit suicide. For example, a person who has just been told that he or she is suffering from a terminal illness which might involve considerable loss of dignity may wish to commit suicide and ask a friend for help in accomplishing this. The friend may consider this to be an understandable and even reasonable request but a compassionate response would be to offer help and support in the context of palliative care, not to acquiesce in the request.

Nonetheless, a suspect, in deciding how to respond to a victim’s request for assistance to commit suicide, will, no doubt, take into account the victim’s personal experience of his or her circumstances. For this reason, even though we do not believe that illness or disability form grounds, in and of themselves, for assisted suicide, we accept that, on rare occasions, a victim’s personal experience of, and reaction to, illness or disability may be such that a suspect might respond compassionately to the victim’s experience by assisting in a suicide. As we have stated above we believe that such a response would be mistaken, but the motivation of compassion may be, nonetheless, real. Even then, however, as we have outlined below, this ought not to be the only criterion in assessing whether or not the suspect did, in fact, act out of compassion and whether that is sufficient to override the presumption in favour of prosecution.

Parliament has consistently resisted attempts to change the law by making illness or disability, in and of themselves, grounds for legalising assisted suicide. The DPP’s Policy, while taking into account all of a victim’s circumstances, must not, in practice change this. It is therefore, our contention that the absence of illness or disability is a factor in favour of prosecution since it is not credible to believe that assisting suicide in these circumstances could be a compassionate act. The presence of illness or disability, in and of themselves, does not mean that assisting suicide is a compassionate act but it is reasonable to take this factor into account as one of a number of criteria in assessing whether or not the suspect acted out of compassion for the victim.

We have made a number of proposed changes to the Policy and we have written our draft Policy Statement out in full, below. We wish to draw attention to the following:
Title and [1]: we prefer that the Policy title includes reference to the offence of assisting, abetting, counselling or procuring suicide and that the term 'assisting or encouraging' suicide is used to refer to this offence throughout the document.

[4]: the use of the term 'victim' to describe the person being assisted to commit suicide is entirely appropriate. The second sentence is unnecessary.

[12]: the word 'genuine' is unnecessary.

[14,15]: we have proposed changes that strengthen reference to presumption in favour of prosecution.

[19(2)]: this is not sufficiently specific and may lead to difficulties with regard to defining 'mental illness or learning difficulty' and ought to be replaced by 'The victim's capacity to reach an informed decision was adversely affected by a mental disorder or learning difficulty such as those recognized as mental or behavioural disorders by the World Health Organisation's International Classification of diseases.'

[19 (16ff)]: we have amended 16 and suggested additional factors in favour of prosecution.

[20]: we find the division of the factors into two distinct lists somewhat arbitrary and prefer, 'In most cases, any one factor will be enough on its own to merit a prosecution in the public interest, notwithstanding the presence of one or more factors against prosecution'

Public interest factors against prosecution: in order to emphasise presumption in favour of prosecution we prefer, 'Public interest factors that may weigh against prosecution'

[21]: we have retained most of the criteria in the Interim Policy but we have organised them in a manner that will assist prosecutors in identifying whether or not a suspect acted out of compassion. As stated above, some of these factors are not, in and of themselves, factors that may weigh against prosecution but they are relevant in assessing the motive of the suspect. We have also included additional factors

[21(5)]: a failure to pursue treatment and care options may be a factor in favour of prosecution but the fact that a victim pursued such treatment does not, in and of itself, become a mitigating factor (see [15] below).

[21 (6)]: it is important to recognize that sole-carers may face pressures, stress and fatigue that might affect their judgement in responding to a request from a victim to assist a suicide.

[21(11)]: we disagree that this is a factor against prosecution. Anyone with a history of suicide attempts ought to be helped to receive support and care, not assisted to commit suicide.
we do not believe that assisting police ought to be a factor against prosecution; rather, failing to assist the police in their investigation ought to be a factor in favour of prosecution.

SUGGESTED POLICY FROM MISSION AND PUBLIC AFFAIRS COUNCIL

Policy for prosecutors in respect of cases of aiding, abetting, counselling or procuring suicide

Issued by the Director of Public Prosecutions

Introduction

1. A person commits an offence if he or she aids, abets, counsels or procures (referred to in this policy as "assisting or encouraging") the suicide of another, or the attempt by another to commit suicide. The consent of the Director of Public Prosecutions (DPP) is required before an individual may be prosecuted.

2. While the DPP can issue a policy which sets out the factors he will take into account in deciding whether to prosecute in individual cases, only Parliament can change the law on assisting or encouraging suicide. The DPP cannot assure a person in advance of committing a crime that a prosecution will not be brought, and nothing in this policy can be taken to amount to such an assurance.

3. It has never been the rule that a prosecution will automatically follow whenever an offence is believed to have been committed. The way in which prosecutors make their decisions in all cases whether or not to prosecute is set out in the Code for Crown Prosecutors. However, the courts have decided that prosecutors should have further guidance setting out additional factors that may be relevant when deciding whether a prosecution for assisting or encouraging suicide is in the public interest in a particular case.

4. For the purposes of this policy, the term "victim" is used to describe the person who may have committed or attempted to commit suicide.

5. This policy applies when the acts that allegedly constitute the assisting and encouraging are committed in England and Wales; the suicide or attempted suicide may occur anywhere in the world, including in England and Wales.
The investigation

6. The police are responsible for investigating all cases of assisting or encouraging suicide and they are encouraged to ask for the advice of prosecutors at an early stage and throughout their enquiries to ensure that all appropriate lines of investigation have been undertaken. Prosecutors should only make a decision when they have all the relevant material that is reasonably capable of being obtained after a full and thorough investigation.

The decision-making process

7. Prosecutors will apply the Code for Crown Prosecutors in making their decisions: there must be sufficient evidence to provide a realistic prospect of conviction in respect of an offence of assisting or encouraging suicide. If there is sufficient evidence, prosecutors should consider whether a prosecution is needed in the public interest.

8. The factors taken into account in deciding whether a prosecution is needed in the public interest also determine whether or not the DPP will consent to a prosecution.

The evidential stage

9. A person commits the offence of assisting or encouraging suicide if he or she aids, abets, counsels or procures the suicide of another, or an attempt by another to commit suicide.

10. For the evidential stage to be satisfied, the prosecution must prove that:

   • the victim committed or attempted to commit suicide; and
   • the suspect assisted or encouraged them in doing so.

11. The prosecution also has to prove that the suspect intended to assist or encourage the victim to commit or attempt to commit suicide and that the suspect knew that those acts were capable of assisting or encouraging the victim to commit suicide.

12. The act of suicide requires the victim to take his or her own life. It remains murder or manslaughter to cause the death of someone who wishes to commit suicide but is unable to do so for him or herself. Even clear expressions of intent from someone who wishes to end his or her life do not entitle another person, even acting wholly out of compassion, to carry out those wishes if the person who wishes to commit suicide is asleep or is not conscious.

13. It is possible in law to attempt to assist or encourage a suicide. This means that there may be an offence committed even where a suicide does not occur or where there is not an attempt to commit suicide. Whether there is sufficient evidence of an
attempt to assist or encourage suicide will depend on the factual circumstances of the case.

The public interest stage

14. Prosecutors must consider the public interest factors set out in the Code for Crown Prosecutors and the factors set out in this policy. Because assisting or encouraging suicide is a criminal offence, the prosecutors’ task is to establish whether there are public interest grounds which, on balance, should over-ride the presumption that the person who is alleged to have assisted or encouraged the suicide should be prosecuted.

15. Assessing the public interest is not simply a matter of adding up the number of factors on each side and seeing which side has the greater number. Each case must be considered on its own facts and on its own merits. Prosecutors must decide the importance of each public interest factor in the circumstances of each case and go on to make an overall assessment. It is quite possible that one factor alone may outweigh a number of other factors which tend in the opposite direction. Nonetheless, as stated in the Code for Crown Prosecutors, “A prosecution will usually take place unless there are public interest factors tending against prosecution which clearly outweigh those tending in favour”.

16. Some public interest factors set out below appear in both lists, because their presence or absence is either a factor in favour of or against prosecution, to be taken into consideration in each case. Others are only either a factor in favour of or against prosecution and they therefore only appear in the appropriate list. In particular, it should be noted that the absence of a factor in favour of prosecution does not, necessarily mean that this becomes a factor against prosecution.

17. It may sometimes be the case that the only source of information about the circumstances of the suicide and the state of mind of the victim is the suspect. Prosecutors and investigators should make sure that they pursue all reasonable lines of further enquiry in order to obtain, wherever possible, independent verification of the suspect's account.

18. Once all reasonable enquiries are completed, if prosecutors are doubtful about the suspect's account of the circumstances of the suicide and the state of mind of the victim which are relevant to any factor set out below, they should conclude that they do not have sufficient information in support of that factor.

Public interest factors in favour of prosecution

19. The public interest factors in favour of prosecution are set out below.

1. The victim was under 18 years of age.

2. The victim's capacity to reach an informed decision was adversely affected by a mental disorder or learning difficulty such as those recognized as mental or...
behavioural disorders by the World Health Organisation's International Classification of diseases.

3. The victim did not have a clear, settled and informed wish to commit suicide; for example, the victim's history suggests that his or her wish to commit suicide was temporary or subject to change.

4. The victim did not indicate unequivocally to the suspect that he or she wished to commit suicide.

5. The victim did not ask personally on his or her own initiative for the assistance of the suspect.

6. The victim did not have:
   - a terminal illness; or
   - a severe and incurable physical disability; or
   - a severe degenerative physical condition;

   from which there was no possibility of recovery.

7. The suspect was not wholly motivated by compassion; for example, the suspect was motivated by the prospect that they or a person closely connected to them stood to gain in some way from the death of the victim. The suspect persuaded, pressured or maliciously encouraged the victim to commit suicide, or exercised improper influence in the victim's decision to do so; and did not take reasonable steps to ensure that any other person did not do so.

8. The victim was physically able to undertake the act that constituted the assistance him or herself.

9. The suspect was not the spouse, partner or a close relative or a close personal friend of the victim.

10. The suspect was unknown to the victim and assisted or encouraged by providing specific information via, for example, a website or publication, to the victim to assist him or her in committing suicide.

11. The suspect gave assistance or encouragement to more than one victim who were not known to each other.

12. The suspect was paid by the victim or those close to the victim for their assistance or encouragement.

13. The suspect was paid to care for the victim in a care/nursing home environment.

14. The suspect was aware that the victim intended to commit suicide in a public place where it was reasonable to think that members of the public may be present.

15. The suspect was a member of an organisation or group, a principal purpose of which is to assist or encourage suicide (whether for payment or not).
16. The victim was detained in a secure environment such as a prison or mental hospital and was in the care of the suspect.

The suspect was a nurse, doctor or other healthcare professional and the victim was in their care.

The victim had suffered a significant bereavement within the previous twelve months

The victim had a recent history of drugs, alcohol or substance abuse

The suspect had not sought to dissuade the victim from taking the course of action which resulted in his or her suicide

The victim had not considered and actively pursued recognised treatment and care options

The suspect failed fully to assist the police in their enquiries into the circumstances of the suicide or the attempt and his or her part in providing assistance.

20. In most cases, any one factor will be enough on its own to merit a prosecution in the public interest, notwithstanding the presence of one or more factors against prosecution.

The evidence to support these factors must be sufficiently close in time to the act of assisting or encouraging to allow the prosecutor reasonably to infer that the factors remained operative at that time. This is particularly important at the start of the specific chain of events that immediately lead to the suicide or the attempt.

These lists of public interest factors are not exhaustive and each case must be considered on its own facts and on its own merits.

Public interest factors that may weigh against prosecution

21. The public interest factors against prosecution are set out below.

1. The suspect was motivated wholly by compassion AND could demonstrate that:

   (i) The victim had a clear, settled and informed wish to commit suicide;

   (ii) The victim indicated unequivocally to the suspect that he or she wished to commit suicide;
(iii) The victim asked personally on his or her own initiative for the assistance of the suspect;

(iv) The victim had requested assistance in committing suicide as a result of his or her experience of
   - a terminal illness; or
   - a severe and incurable physical disability; or
   - a severe degenerative physical condition;

from which there was no possibility of recovery;

(v) The suspect had sought to dissuade the victim from taking the course of action which resulted in his or her suicide;

(vi) The actions of the suspect may be characterised as reluctant assistance in the face of a determined wish on the part of the victim to commit suicide

(vii) The victim was physically unable to undertake the act that constituted the assistance him or herself.

2. The suspect was the spouse, partner or a close relative or a close personal friend of the victim (though not the sole carer), within the context of a long-term and supportive relationship.

3. The actions of the suspect, although sufficient to come within the definition of the offence, were of only minor assistance or influence.

4. The assistance which the suspect provided was as a consequence of his or her usual lawful employment and did not directly or immediately contribute to the death

5. The suspect did not stand to gain any advantage, financial or otherwise, by the death of the victim.

6. The suspect’s capacity to reach an informed decision to assist or encourage the victim was adversely affected by a mental disorder or learning difficulty such as those recognized as mental or behavioural disorders by the World Health Organisation's International Classification of diseases.

7. The suspect was put under sustained and focused pressure by the victim or members of the victim's family to assist or encourage the victim's suicide

22. Factor (1) above will carry more weight than the other factors in deciding that a prosecution is not needed in the public interest.

23. The evidence to support these factors must be sufficiently close in time to the assistance to allow the prosecutor reasonably to infer that the factors remained
operative at that time. This is particularly important at the start of the specific chain of events that immediately lead to the suicide or the attempt.

24. These lists of public interest factors are not exhaustive and each case must be considered on its own facts and on its own merits.

Handling arrangements

25. Cases of assisting or encouraging suicide are dealt with in Special Crime Division in CPS Headquarters. The Head of that Division reports directly to the DPP.

26. Any prosecutor outside Special Crime Division of Headquarters therefore who receives any enquiry or case involving an allegation of assisted suicide should ensure that the Head of Special Crime Division is notified.